

**Local 810, International Brotherhood of Teamsters,  
Chauffeurs, Warehousemen and Helpers of  
America and Parsons Art Supply d/b/a Kate's  
Art Supply. Case 2-CB-9956**

29 February 1984

**DECISION AND ORDER**

BY CHAIRMAN DOTSON AND MEMBERS  
ZIMMERMAN AND HUNTER

On 16 November 1983 Administrative Law Judge Raymond P. Green issued the attached decision. The Respondent and the General Counsel filed exceptions and supporting briefs.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the decision and the record in light of the exceptions and briefs and has decided to affirm the judge's rulings, findings,<sup>1</sup> and conclusions and to adopt the recommended Order as modified.

**ORDER**

The National Labor Relations Board adopts the recommended Order of the administrative law judge as modified below and orders that the Respondent, Local 810, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, its officers, agents, representatives, and assigns, shall take the action set forth in the Order as modified:

1. In paragraph 2(a) add "and members" after "employees."

2. Insert the following as paragraph 2(b):

"(b) Sign and return to the Regional Director for Region 2 sufficient copies of the notice for posting by Parsons Art Supply d/b/a Kate's Art Supply, if willing, at all places where notices to employees are customarily posted."

3. Add the following as paragraph 2(c):

"(c) Notify the Regional Director for Region 2 in writing within 20 days of this Order what steps the Respondent has taken to comply."

<sup>1</sup> Contrary to the judge, we would find a cease-and-desist order warranted in this case even absent the Respondent's previous violations of the Act.

**DECISION**

**STATEMENT OF THE CASE**

RAYMOND P. GREEN, Administrative Law Judge: This case was heard by me in New York, New York, on September 29, 1983. The charge was filed on June 13, 1983,

and the complaint issued on July 20, 1983. In substance, the complaint alleges that on June 10, 1983, the Union by its agent, Steven Silverman, "in the presence of employees of the Employer and at the Employer's facility (a) threatened to inflict property damage to the Employer's facility and the contents thereof, and (b) threatened a supervisor of the Employer with physical harm."

The General Counsel presented four witnesses to support the complaint, these being Manager Kate Edwards and employees Thomas Brydelsky, Emanuel Jones, and Cassandra Coulianos. The Respondent presented Silverman who denied the statements attributed to him. Thus, the factual issues turn on credibility. In this respect, I note that although the General Counsel's witnesses, all of whom were present when the transactions took place, were mutually corroborative on some points, their versions diverged in certain material respects. On the whole, of all the witnesses I heard, I was most impressed with the testimony and demeanor of Cassandra Coulianos on whose testimony I shall rely.

Based on the entire record in this case including my observation of the demeanor of the witnesses, and after considering the briefs filed by counsel, I make the following

**FINDINGS OF FACT**

**I. JURISDICTION**

At the hearing the Respondent amended its answer to admit the jurisdictional allegations of the complaint. Therefore, it is found that the Employer is engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act and that the Respondent is a labor organization within the meaning of Section 2(5) of the Act.

**II. THE ALLEGED UNFAIR LABOR PRACTICES**

The Employer operates an art supply store at 13th Street in the city of New York which is not far away from the Union's office. It employs about eight employees other than Kate Edwards who is the manager.

On a few occasions in March and April 1983 various representatives of the Union visited the store in an unsuccessful attempt to interest the employees in joining the Union. On June 10, Steven Silverman entered the store, which gave rise to the events of this case.

When Silverman entered the store, he attempted to speak to an employee about the Union and after that continued to browse around. When Kate Edwards saw him, she came downstairs and asked if he wished to make a purchase. (She was aware by this time that he was a union representative.) He responded that he might or might not be interested in making a purchase. She then told him that he had no business in the store and requested that he leave. He refused, stating that it was a public place. Her retort was that if he did not leave, she would have the police called. She then left to call the police. According to Cassandra Coulianos, it was at this time that Silverman said that the glass windows looked so lovely that it would be a shame if they were broken.

When Silverman sought to leave the store he found that the door had been locked and he asked Brydelski if he was being prevented from leaving. Brydelski said yes. It appears that Brydelski's intent was to force Silverman to remain in the store until the police came. In this respect, Brydelski closed the door by putting scissors into the latch. At this point, Silverman discovered the scissors, removed them from the latch, and threw them on the floor. When Brydelski then stood in his way, blocking Silverman from leaving, Silverman, in any angry tone told him to "get the hell out of my way." When Brydelski did not move, Silverman pushed past him and left.<sup>1</sup> According to Edwards, Brydelski, and Emanuel Jones, when Silverman left, he said either that he would come back and break the glass or smash up the store. Kate Edwards also asserts that Silverman said that he would come back and get her. This is denied by Silverman. Also, according to Brydelski, as Silverman exited, he turned to another union agent (who was standing outside the door), and said, "do you believe this guy, I'm going to kill him." The problem with Brydelski's testimony concerning this last alleged threat (which is denied by Silverman) is that no other person could corroborate it and Brydelski had to be shown his pre-trial affidavit before he could recall it. I note, in this respect, that the event occurred only 3 months before Brydelski gave his testimony.

### III. CONCLUDED FINDINGS

Based on the entire record in this case, it is my opinion that Silverman while at the store, and after having been asked to leave, did make a threat of property damage in the presence of employees. Thus, based on the testimony of Coulianos, I find that after being asked to leave the store, Silverman said that the store windows looked so lovely, it would be a shame if they were broken. On the other hand, I do not believe the credible evidence is sufficient to support the conclusion that Silverman threatened to inflict bodily harm on anybody. While the entire matter can hardly be viewed as earthshaking and borders on being de minimus and/or isolated, I shall nevertheless recommend that a cease-and-desist order be issued and that a notice be posted. I make this recommendation because the Union has been found, in prior cases, to have engaged in similar violations of the Act. See *Teamsters Local 810 (Russell Plastics)*, 235 NLRB 40 (1978), and *Teamsters Local 810 (Scales Compressor Air Corp.)*, 200 NLRB 575 (1972).

### CONCLUSIONS OF LAW

1. The Respondent is a labor organization within the meaning of Section 2(5) of the Act.

2. Parsons Art Supply d/b/a Kate's Art Supply is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

3. The Respondent violated Section 8(b)(1)(A) of the Act when its agent, Steven Silverman, threatened to in-

flict property damage upon the Employer's premises in the presence of its employees.

4. The aforesaid unfair labor practice affects commerce within the meaning of the Act.

5. Except to the extent herein found, the other allegations of the complaint are dismissed.

On these findings of fact and conclusions of law and on the entire record, I recommend the following

### ORDER<sup>2</sup>

The Respondent, Local 810, International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, its officers, agents, and representatives, shall

1. Cease and desist from

(a) Threatening to inflict damage to the property of Parsons Art Supply d/b/a Kate's Art Supply in the presence of said Company's employees.

(b) In any like or related manner interfering with, restraining, or coercing said employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action which is necessary to effectuate the policies of the Act.

(a) Post in conspicuous places, including all places where notices to employees are customarily posted, copies of the attached notice marked "Appendix."<sup>3</sup> Copies of said notice on forms provided by the Regional Director for Region 2 shall, after being signed by the Respondent's authorized representative, be posted immediately upon receipt and maintained for 60 consecutive days. Reasonable steps shall be taken by the Respondent to ensure that said notices are not altered, defaced, or covered by any other material.

(b) Notify the Regional Director in writing within 20 days from the date of this Order what steps Respondent has taken to comply.<sup>4</sup>

<sup>2</sup> If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

<sup>3</sup> If this Order is enforced by a Judgment of a United States Court of Appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

<sup>4</sup> If these Recommendations are adopted by the Board, this provision shall be modified to read: "Notify the Regional Director for Region 2, in writing, within 10 days from the date of this Order, what steps the Respondent has taken to comply herewith."

### APPENDIX

NOTICE TO EMPLOYEES  
POSTED BY ORDER OF THE  
NATIONAL LABOR RELATIONS BOARD  
An Agency of the United States Government

WE WILL NOT threaten to inflict damage to the property of Parsons Art Supply d/b/a Kate's Art Supply in the presence of said Company's employees.

<sup>1</sup> The General Counsel does not allege that Silverman violated the Act when he pushed Brydelski.

WE WILL NOT in any like or related manner threaten, restrain, or coerce the aforesaid employees in the exer-

cise of the rights guaranteed to them by Section 7 of the Act.

LOCAL 810, INTERNATIONAL BROTHER-  
HOOD OF TEAMSTERS, CHAUFFEURS,  
WAREHOUSEMEN AND HELPERS OF AMER-  
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